



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

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HM32/0809

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APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/946,138	10/07/97	029	CAMPBELL, E	1653 08/09/99
First Named Applicant	ALBRECHT, GLENN			

TITLE OF INVENTION MASSIVELY PARALLEL SIGNATURE SEQUENCING BY LIGATION OF ENCODED ADAPTORS

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1 808-2	435-006.000	P84	UTILITY	NO	\$1210.00	11/09/99

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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The Response filed on November 18, 1993 has been entered.

All of the obviousness-type double patenting rejections and rejections under 35 USC 103 as set forth in the Office action mailed on October 14, 1998 are MAINTAINED.

The Response filed on November 18, 1993 and interview summary filed on November 12, 1998 have been thoroughly considered, but were not deemed to be persuasive.

The Response filed on November 18, 1993 recited that the claimed adaptors include a tag, whereas the probes in '675 do not contain a tag.

It is the Examiner's position that attaching a known tag to a known probe structure does not make the composition or a obvious use of the hybrid-compound as taught by the cited references non-obvious. In the absence of unexpected results or of evidence to the contrary, any differences such as the defined structure would have been expected by the artisan at the time the invention was made in view of the cited similarities. The differences in the compounds do not necessarily make the methods patentably distinguishable. Again the labeled adaptors are well known in the art and would be obvious to one of ordinary skill in the art. Although there was no guarantee that said adaptors would have been successful for sequencing, obviousness requires only a reasonable expectation of success and not absolute predictability. Applicant has provided no evidence to disclose why the adaptors with a tag recited in the prior art would not render the claimed methods obvious to one of ordinary skill in the art. Experiments were not performed in side by side analysis, under the same conditions to demonstrate any unexpected results. It has not

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been shown that the claimed methods with the labeled adaptors fragments have unexpected properties for sequencing in view of the prior art cited. There is no evidence that the advantage of said adaptors relied upon, in fact, is an unexpected advantage rather than something which would have been expected to be present. There is no evidence of long-felt but heretofore unsolved need, failure of others to overcome this obviousness rejection.

The Response filed on November 18, 1993 argues that there is no teaching in the prior art to combine these references.

The examiner wishes to point out that the test of obviousness is not express suggestion of the claimed invention in any or all of the references but rather what the references taken together would suggest to those of ordinary skill in the art presumed to be familiar with them. For the purposes of combining references, these references need not explicitly suggest combining teachings much less specific references. Motivation can be provided by the examiner based on sound scientific reasoning. The fact that each of the cited references does not meet all of the limitations of the claimed invention only mitigates against using these references as anticipatory references, not as evidence in reaching a conclusion of obviousness under 35 USC 103.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eggerton Campbell whose telephone number is (703) 308-3880. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 4:30 PM (EST).

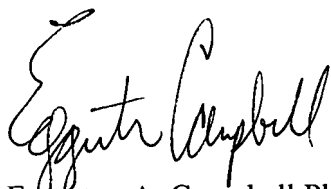
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can normally be reached on Monday-Friday from 8:00 AM to 4:00 PM (EST) and whose telephone number is (703) 308-1152.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Group 180 by facsimile transmission.

Papers should be faxed to Group 180 via the PTO Fax Center located in Crystal Mall I. Papers may be submitted Monday-Friday between 8:00 am and 4:45 pm (EST). The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 305-3014 or (703) 308-4242.



Eggerton A. Campbell Ph.D.
November 30, 1998

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**EGGERTON A. CAMPBELL
PRIMARY EXAMINER**